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EXAMINER

CALVE, J

ART UNIT

PAPER NUMBER

2164

DATE MAILED: 09/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/346,719

Applicant(s)

ANAYA, Ana G. et al

Examiner

Jim Calve

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 2, 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other:

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. There appears to be a typographical error on page 4, line 23: "enbodimetn".Appropriate correction is required.

Claim Objections

2. Claim 34 is objected to because of the following informalities:
 - a. There appears to be a typographical error in claim 34, lines 1-2: "an receiver".
 - b. There appears to be a typographical error in claim 34, line 4: "to publishes".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 4, 19, and 28-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. In line 3 of claims 4, 19, and 30, the limitation "and/or" is indefinite. It is unclear whether the recited elements are being claimed in the alternative or in some other particular combination.
 - b. Claim 36 is vague and indefinite. The scope of claim 36 is unclear and appears to broaden, rather than narrow, the subject matter of claims 28 and 30, from which it depends. It is

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unclear whether claim 36 is reciting a system capable of operating an NT software program or rather a system in combination with a software program.

- c. Several limitations lack antecedent basis. Examples include:
 - i. “the servers” (claim 28, line 5).
 - ii. “each computer” (claim 33, line 1).
 - iii. “the computers” (claim 36, line 1).
 - iv. “the software program” (claim 36, line 2).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-35 and 37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zusman et al, U.S. patent 5,987,432.

Zusman et al disclose a method, program, and system of receiving and formatting incoming messages, including receiving plural incoming market event data messages (e.g., at 22, 45) from a data feed (e.g., 24) (e.g., column 5, line 25 et seq), translating messages into a common format (e.g., at 52) (e.g., Figures 1-3) (e.g., column 6, line 25 et seq; column 9, line 12 et seq), and publishing the translated messages on a network of processing devices (e.g., LAN 28, WAN 34, LAN 40) (e.g., Figure 1; column 5, line 42 et seq; column 6, line 25 et seq), a network (e.g., Figure 1), and line handlers (e.g., CTPs 22, 45).

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Zusman et al also disclose plural incoming formats/feed lines (e.g., at 22/45, 24a, 24b) (e.g., Figures 1-3; column 6, line 25 et seq), receiving, translating, and publishing a second plurality of incoming messages (at 22/45) (e.g., column 5, line 63 et seq; column 6, line 40 et seq), trade quotations, volumes, indices, NQDS market source, newswire messages (e.g., ticker data feed, market statistics) (e.g., Figures 1-3; column 8, line 27 et seq; column 10, line 1 et seq), publishing (e.g., column 5, line 42 et seq), sequence numbers/list (e.g., column 9, line 12 et seq; column 10, line 8 et seq; column 10, line 28 et seq), time data/event time (e.g., column 9, line 1 et seq), common format (e.g., column 9, line 20 et seq).

Claim Rejections - 35 USC § 102/103

7. Claims 1-9, 14-22, 27-34, 36, and 37, as best understood, are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wilson, U.S. patent 5,864,827.

Wilson discloses a method, product, and system (e.g., Figure 1), including plural incoming messages (e.g., 24-30, steps 112, 120) (e.g., Figures 1, 4; column 3, line 15 et seq), translating received messages into event messages with a common format (e.g., at FIX protocol at gateway 1, steps 114, 122) (e.g., column 3, line 37 et seq; column 4, line 30 et seq; column 7, line 20 et seq), publishing on a network with plural devices (e.g., 2-6) (e.g., column 6, line 18 et seq), network server with plural line handlers (e.g., gateway 1) (e.g., Figure 1). Wilson is deemed to disclose market event data, as recited in claims 1, 16, and 28. To the extent that Wilson could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the method, product, and system of Wilson to receive market event data from

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plural sources and to translate that data into a common format in order to facilitate the translation of data from one system into a common data format usable by another system (e.g., column 1, line 25 et seq).

Wilson also discloses plural formats from plural feed lines and incoming messages (e.g., 24-30) (e.g., column 4, line 52 et seq), trade quotations/volumes/NQDS messages/market source (e.g., transaction acknowledgments and confirmations including trade quotes/volumes from exchanges, including NASDAQ (18)) (e.g., column 5, line 4 et seq; column 7, line 31 et seq), publishing to plural devices (e.g., steps 118, 126) (e.g., Figure 4; column 2, line 60 et seq; column 4, line 9 et seq), sequence numbers (e.g., column 6, line 37 et seq), time data (e.g., column 6, line 45 et seq), operations server (e.g., at gateway 1) (e.g., column 4, line 1 et seq), and NT program (inherently disclosed) (e.g., column 4, line 1 et seq). Wilson is deemed to disclose incoming messages with quotations, volumes, NASDAQ QDS, and market source messages, time data (e.g., coding and identification information), and NT software-compatible system. To the extent that Wilson could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the method, product, and system of Wilson to translate such messages to facilitate the translation of data from one system into a common data format usable by another system (e.g., column 1, line 25 et seq) to place time data on incoming messages as a means of accurately identifying and flagging the messages for later processing (e.g., column 6, line 45 et seq), and to provide an NT program-compatible to facilitate network communications over disparate network architectures and protocols (e.g., column 4, line 1 et seq).

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Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kampe et al, U.S. patent 6,016,107.

Kampe et al disclose a method, program, and system of receiving and formatting messages (e.g., Figure 1), including receiving plural market event data messages (e.g., 140, 142, 144) (e.g., column 1, line 45 et seq; column 5, line 4 et seq), translating a portion of the messages into event messages of common format (e.g., FLEX™ protocol) (e.g., column 3, line 35 et seq), publishing messages on a network of plural devices (e.g., 130) (e.g., Figure 1; column 1, line 15 et seq; column 3, line 65 et seq). To the extent that Kampe et al could be interpreted not to disclose market event data, as broadly recited, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the system of Kampe et al for receiving and publishing market data as a means of providing customers with timely market event data for trading and portfolio management.

Kampe et al also disclose plural formats/messages (e.g., 140, 142, 144), publishing (e.g., column 3, line 65 et seq), trade quotations, indices, volumes, trade parties (e.g., column 1, line 45 et seq; column 5, line 4 et seq), NQDS messages (inherently disclosed), market source/newswire

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(e.g., 140-142), time data sequencing (e.g., column 2, line 23 et seq; column 3, line 35 et seq; column 7, line 17 et seq). Regarding claim 36, it would have been obvious to one of ordinary skill in the art at the time of the invention to operate an NT program on the system of Kampe et al as an improved means to facilitate network communications and operation.

10. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zusman et al.

Zusman et al disclose a message formatting system, as discussed, including an "NT program" (e.g., SMF system provision of operative windows) (e.g., column 23, line 24 et seq).

To the extent that Zusman et al could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to operate an NT program on the system of Zusman et al as an improved means to facilitate network communications and operation (e.g., column 4, line 1 et seq).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Adler et al, U.S. patent 6,138,130.
- b. Black et al, U.S. patent 6,012,042.
- c. Ginsberg, U.S. patent 5,857,176.
- d. Lozman, U.S. patent 5,689,651.
- e. Higgins, U.S. patent 5,270,922.
- f. Boilen, U.S. patent 4,750,135.
- g. Martyn et al, WO 98/13778.


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h. Kosaka et al, GB 2,250,841.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim Calve, whose telephone number is (703) 308-1884. The examiner can normally be reached on Tuesday through Friday from 6:45 am to 6:45 pm. If the examiner is unavailable, the examiner's supervisor, Vincent Millin, may be reached at (703) 308-1065. The fax number for this organization is (703) 305-9051/9052. Any inquiry of a general nature should be directed to the receptionist at (703) 305-3900.

JPC
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July 31, 2001


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